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WASHINGTON DC 20006-1021

In re Application of	:	NOTIFICATION
KATAYAMA et al.	:	
Application No.: 10/552,509	:	
PCT No.: PCT/JP04/05130	:	
Int. Filing Date: 09 April 2004	:	
Priority Date: 10 April 2003	:	
Attorney Docket No.: 2005_1546A	:	
For: BIOLOGICAL INFORMATION	:	
MONITORING SYSTEM	:	

This application is before the Office of PCT Legal Administration for consideration of matter arising under 35 U.S.C. 371.

BACKGROUND

On 09 April 2004, applicant filed international application PCT/JP04/05130, which designated the United States and claimed a priority date of 10 April 2003. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 21 October 2004. The thirty-month period for paying the basic national fee in the United States expired at midnight on 11 October 2005 (10 October 2005 being a Federal holiday).

On 05 October 2005, applicants filed a transmittal letter for entry in to the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee, an assertion of small entity status, a declaration of inventors and a copy of a "NOTIFICATION OF CHANGE OF PERSON" apparently filed with the World Intellectual Property Organization (WIPO).

DISCUSSION

37 CFR 1.41(a)(4) states:

The inventorship of an international application entering the national stage under 35 U.S.C. 371 is that inventorship set forth in the international application, which includes any change

effected under PCT Rule 92bis. See § 1.497(d) and (f) for filing an oath or declaration naming an inventive entity different from the inventive entity named in the international application, or if a change to the inventive entity has been effected under PCT Rule 92bis subsequent to the execution of any declaration filed under PCT Rule 4.17(iv) (§ 1.48(f)(1) does not apply to an international application entering the national stage under 35 U.S.C. 371).

The declaration filed 05 October 2005 does not list the inventorship set forth in the international application. The declaration identifies only one inventor while the international application identifies four inventors. A Form PCT/IB/306 (NOTIFICATION OF THE RECORDING OF A CHANGE) from the International Bureau indicating that three inventors have been deleted does not appear in the file. The copy of the "NOTIFICATION OF CHANGE OF PERSON" apparently filed with WIPO does not act as a substitute for a Form PCT/IB/306. Accordingly, the inventorship in the national stage is the inventorship set forth in the international application and the declaration filed 05 October 2005 is not sufficient.

CONCLUSION

Applicants are required to file a declaration in compliance with 37 CFR 1.497(a)-(b) naming the proper inventive entity, or a proper change of inventorship under 37 CFR 1.497(d), or a Form PCT/IB/306 indicating a change effected under PCT Rule 92^{bis} corresponding to the declaration filed 05 October 2005, within TWO (2) MONTHS from the date of mailing of this decision. Extensions of time may be obtained under 37 CFR 1.136(a). Failure to timely file a proper reply will result in abandonment of the application.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



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